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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 12, 2002

APPLICATION OF

BUDGET PHONE OF VIRGINIA, INC.

CASE NO. PUC-2001-00203

For a certificate of public  
convenience and necessity to  
provide local exchange  
telecommunications services

ORDER

On November 30, 2001, Budget Phone of Virginia, Inc. ("Budget" or the "Company"), completed an application for a certificate of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange telecommunications services throughout the Commonwealth of Virginia. The Company proposes to offer a prepaid month-by-month local exchange telephone service and non-prepaid local exchange telephone service to residential subscribers.

In order to provide the prepaid service, Budget requests waivers of Rule C 5 and certain provisions of Rule C 1 of the Rules Governing the Offering of Competitive Local Exchange Telephone Service, 20 VAC 5-400-180 ("Local Rules"), requiring a new entrant, either directly or through arrangements with others, to provide access to directory assistance, access to operator services, equal access to interLATA long distance

carriers, and access to intraLATA service to all local exchange customers. The Company further requests a waiver of Rule D 3 c of the Local Rules, limiting the proposed rate for service provided by the new entrant not to exceed the highest of the comparable tariffed services provided by the incumbent local exchange telephone company or companies in the same local serving areas. Budget also requested a full waiver of Rules B 5 a and E 1 d regarding the requirement for audited financial statements.

By Order dated December 12, 2001, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On January 14, 2002, and January 29, 2002, Budget filed proof of publication and proof of service as required by the December 12, 2001, Order. No comments or requests for hearing were filed.

On March 15, 2002, the Staff filed its Report<sup>1</sup> finding that the Company's application was, overall, acceptable and in compliance with the Local Rules. Based upon its review of the Company's application, the Staff did not object to Budget's request for waivers from specific requirements of the Local

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<sup>1</sup> Pursuant to the Order For Extension of Time, issued February 15, 2002, Staff was granted until March 15, 2002, to file its Staff Report.

Rules for its monthly prepaid local exchange telecommunications service offering or its request for a certificate to provide local exchange telecommunications services subject to certain conditions. These conditions follow:

(1) Should Budget offer any non-prepaid services and collect customer deposits, it shall establish and maintain an escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with Budget and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as Staff or the Commission determines it is no longer necessary.

(2) In lieu of audited financial statements, Staff requested, and Budget supplied, a \$50,000 Permit Bond. Budget shall notify the Division of Economics and Finance 30 days prior to the cancellation or lapse of its Bond and provide a replacement Bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(3) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be allowed to collect customer deposits under any circumstances.

(4) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall provide full disclosure to consumers about the services and features Budget will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange service. Sales brochures and other marketing and advertising materials shall prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(5) Any waivers granted to Budget in this case for its prepaid month-by-month local exchange service described in the Company's filing shall be limited solely to that service offering.

(6) Any waivers granted to Budget for its prepaid month-by-month local service shall be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently determines

the service is operating improperly or is not in the public interest.

(7) Any subsequent increase in the rate for Budget's prepaid month-by-month local service shall be subject to thirty (30) days' notice to the Commission and notice to the customers provided through billing inserts or publication for two consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(8) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall have the ability to bill its prepaid customers for per-use or per-minute features and services in limited situations where the Company does not have the ability to block the customers' access to those features and services. The Company shall be required to provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(9) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall be required to clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the

Company does not have the ability to block customers' access to features and services that have associated per-use or per-minute charges and the Company intends to bill the customer.

(10) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be granted a waiver from the price ceiling requirement (§ D 3 c of the Local Rules) in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-use or per-minute charges.

On March 22, 2002, Budget filed its response stating it had no objections to the Staff Report and requesting that the Commission grant a certificate of public convenience and necessity based upon the conditions recommended by Staff.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted a certificate to provide local exchange telecommunications services with the conditions recommended by Staff.

Accordingly, IT IS ORDERED THAT:

(1) Budget Phone of Virginia, Inc., is hereby granted a certificate of public convenience and necessity, No. T-579, to provide local exchange telecommunications services subject to the restrictions set forth in the Rules Governing the Offering

of Competitive Local Exchange Telephone Service, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) Local Rules § C 1 d, § C 1 e, § C 1 f, § C 5, and § D 3 c are waived solely for Budget's prepaid month-by-month local exchange telecommunications service described in the application. The Local Rules shall otherwise apply to all local exchange telecommunications services provided by Budget.

(3) Budget is hereby granted waiver of §§ B 5 a and E 1 d of the Local Rules requiring audited financial statements. In the alternative, Budget shall provide and maintain a Permit Bond ("Bond") in the amount of \$50,000 with the Division of Economics and Finance.

(4) The waivers granted to Budget for its prepaid month-by-month local exchange telecommunications service in ordering paragraph (2) of this Order shall only apply to that service offering.

(5) Regarding paragraph (3) of this Order, Budget shall notify the Division of Economics and Finance thirty (30) days prior to the cancellation or lapse of its Bond and provide a replacement Bond. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(6) Should Budget offer any non-prepaid services and collect customer deposits, it shall establish and maintain an

escrow account for such funds, held in a Virginia office of a duly chartered state or national bank, savings and loan association or savings bank, or credit union that is unaffiliated with Budget and shall notify the Division of Economics and Finance of the escrow arrangement and any subsequent change. Any escrow arrangement established pursuant to this requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary.

(7) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be allowed to collect customer deposits under any circumstances.

(8) Regarding Budget's prepaid month-by-month local exchange service offer, the Company shall provide full disclosure to customers about the services and features Budget will and will not furnish to subscribers of its alternative prepaid month-by-month local exchange service. Sales brochures and other marketing and advertising materials must prominently disclose that customers will have no access to directory assistance, operator services, long distance, collect and third-party calls, or any other pay-for-usage services.

(9) The waivers granted to Budget for its prepaid month-by-month local exchange service shall be subject to revocation, alteration, or the imposition of additional conditions, such as pricing restrictions, in the event the Commission subsequently



determines the service is operating improperly or is not in the public interest.

(10) Any subsequent increase in the rate for Budget's prepaid month-by-month local exchange service shall be subject to thirty (30) days' notice to the Commission and notice to customers provided through billing inserts or publication for two (2) consecutive weeks as display advertising in newspapers having general circulation in the areas served by the Company.

(11) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall have the ability to bill its prepaid customers for per-use or per-minute features and services in limited situations where the Company does not have the ability to block the customers' access to those features and services. The Company shall be required to provide full disclosure to consumers that per-minute or per-use charges may apply for certain services or features in these limited circumstances.

(12) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall be required to clearly and specifically include any features and services, including rates, in the Company's tariff for the limited situations where the Company does not have the ability to block customers' access to features and services that have associated

per-use or per-minute charges and the Company intends to bill the customer.

(13) Regarding Budget's prepaid month-by-month local exchange service offering, the Company shall not be granted a waiver from the price ceiling requirement (§ D 3 c of the Local Rules) in the limited circumstances where the Company is unable to block a customer's access to certain features and services that have associated per-use or per-minute charges.

(14) Budget shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations from which the Company has not been granted waivers.

(15) There being nothing further to come before the Commission, this case shall remain open to evaluate Budget's prepaid month-by-month local exchange telecommunications service.